

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

Rock n' Roll Foods, LLC; Richard "Rocky" Parks,  
Plaintiffs,  
v.  
Stephen Frazer et al.,  
Defendants.

2:15-cv-00988-JAD-CWH

## **Order Granting Motion to Dismiss [#4]**

In this removed action, plaintiffs Rock n' Roll Foods, LLC and Richard "Rocky" Parks allege nine claims ranging from breach of contract to securities fraud, all without any facts to support them. Doc. 1 at 6–18. Defendants Stephen Frazer and Emerging Technology Corporation move to dismiss this action for failure to state a plausible claim. Doc. 4. By their response, plaintiffs do not deny the insufficiency of their initial pleading; they argue instead that their proposed first amended complaint cures any deficiency and survives dismissal. Unfortunately, they've neither attached that new pleading nor moved for leave to file it. *See* Doc. 7

17 As plaintiffs tacitly concede the merits of the defendants' motion to dismiss, IT IS HEREBY  
18 ORDERED that the Motion to Dismiss [Doc. 4] is GRANTED; all of plaintiffs' claims are  
19 dismissed without prejudice, but this case will not yet be closed. Plaintiffs have 10 days to file  
20 a proper motion for leave to amend in compliance with the local rules and with the proposed draft  
21 amended complaint attached. The briefing on the motion for leave to amend will proceed in the  
22 normal course. If plaintiffs fail to file a timely motion for leave to amend, or if they fail to  
23 demonstrate that leave is proper, this case may be closed.

Dated this 29th day of June, 2015.

Jennifer A. Dorsey  
United States District Judge